

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

UNITED STATES OF AMERICA)	
)	CRIMINAL ACTION NO.
v.)	2:18cr284-MHT
)	(WO)
REGINALD McCOY)	

OPINION AND ORDER

This cause is before the court on defendant Reginald McCoy's motion to continue. For the reasons set forth below, the court finds that jury selection and trial, now set for November 5, 2018, should be continued pursuant to 18 U.S.C. § 3161(h)(7).

While the granting of a continuance is left to the discretion of the trial judge, see *United States v. Stitzer*, 785 F.2d 1506, 1516 (11th Cir. 1986), the court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Act provides in part:

"In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making

public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs."

§ 3161(c)(1). The Act excludes from the 70-day period any continuance based on "findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." § 3161(h)(7)(A). In granting such a continuance, the court may consider, among other factors, whether the failure to grant the continuance "would deny counsel for the defendant ... reasonable time necessary for effective preparation, taking into account the exercise of due diligence." § 3161(h)(7)(B)(iv).

The court concludes that, in this case, the ends of justice served by granting a continuance outweigh the interest of the public and McCoy in a speedy trial. McCoy's counsel represents that she needs additional time to locate witnesses in McCoy's defense should he

decide to go to trial. Furthermore, defense counsel is in the process of retaining a forensic psychologist to test McCoy to "see if there are any barriers that would prevent [him] from processing his options or assisting counsel in preparation or resolution of his case." Motion to Continue (doc. no. 19) at 2. For these reasons, the court concludes that a continuance to the next available trial term is warranted to enable McCoy and his counsel to prepare effectively for trial.

Accordingly, it is ORDERED that defendant Reginald McCoy's motion to continue (doc. no. 19) is granted to the extent that the jury selection and trial, now set for November 5, 2018, are reset for December 3, 2018, at 10:00 a.m., in Courtroom 2FMJ of the Frank M. Johnson Jr. United States Courthouse Complex, One Church Street, Montgomery, Alabama.

DONE, this the 16th day of October, 2018.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE